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August 28, 2000

VIA HAND DELIVERY

Magalie R. Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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AUG 28 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


**Re: Joint Opposition to the Petition for Rule Making Filed by the
Satellite Industry Association In the Matter of Amendment of the
U.S. Table of Frequency Allocations to Designate the 2500-2520/2670-
2690 MHz Frequency Bands for the Mobile-Satellite Service, RM-9911**

Dear Ms. Salas:

Attached is a Joint Opposition to the above-captioned petition for rule making filed by the Satellite Industry Association, as referenced on Public Notice, dated July 28, 2000, DA 00-1673, on behalf of the following accredited schools and nonprofit entities: the Archdiocese of Los Angeles Education and Welfare Corporation, Caritas Telecommunications Corp., the Catholic Bishop of Chicago, Catholic Television Network, the Colorado State Board of Agriculture, Counterpoint Communications, Inc., the Instructional Telecommunications Foundation, the Macomb Intermediate School District, the National Conference on Citizenship, Oakland Schools, the Office of Radio and Television of the Archdiocese of Hartford, the Roman Catholic Archbishop of the Archdiocese of Detroit, the Roman Catholic Communications Corp., the Roman Catholic Diocese of Dallas, the Roman Catholic Diocese of Orange, Stanford University, and the University of Colorado.

If you have any questions concerning this matter, please contact the undersigned.

Respectfully submitted,



Edwin N. Lavergne

ENL:js
Attachments

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In the Matter of)
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Amendment of the U.S. Table of) RM-9911
Frequency Allocations to Designate)
the 2500-2520/2670-2690 MHZ Frequency)
Bands for the Mobile-Satellite Service)

To: The Commission

JOINT OPPOSITION

Pursuant to Section 1.405(a) of the Commission's rules, the undersigned accredited schools and nonprofit entities,¹ by their counsel, hereby submit this joint opposition to the above-captioned petition for rule making ("Petition") filed by the Satellite Industry Association ("SIA").² The Petition requests the amendment of the U.S. Table of Frequency Allocations, 47 C.F.R. § 2.106, to reallocate the 2500-2520 MHZ and 2670-2690 MHZ frequency bands, currently allocated to the Instructional Television Fixed Service ("ITFS") and the Multipoint Multichannel Distribution Service ("MMDS"), for use by the Mobile-Satellite Service ("MSS").

All of the undersigned parties have a strong interest in preserving and enhancing the value and use of ITFS spectrum. Moreover, several of the undersigned parties hold licenses to use the specific

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1. The undersigned parties include the Archdiocese of Los Angeles Education and Welfare Corporation, Caritas Telecommunications Corp., the Catholic Bishop of Chicago, Catholic Television Network, the Colorado State Board of Agriculture, Counterpoint Communications, Inc., the Instructional Telecommunications Foundation, the Macomb Intermediate School District, the National Conference on Citizenship, Oakland Schools, the Office of Radio and Television of the Archdiocese of Hartford, the Roman Catholic Archbishop of the Archdiocese of Detroit, the Roman Catholic Communications Corp., the Roman Catholic Diocese of Dallas, the Roman Catholic Diocese of Orange, Stanford University, and the University of Colorado.
 2. The Petition was filed on April 28, 2000, and subsequently appeared on Public Notice on July 7, 2000 (Report No. 224).

frequencies that are the subject of the Petition to provide educational and instructional services to students. These educational and instructional services would be seriously jeopardized if the SIA proposal were implemented. The Commission should dismiss the Petition because the requested reallocation would be costly and disruptive, while offering only distant and speculative benefits in return.

I. IMPLEMENTATION OF THE SIA PROPOSAL WOULD BE COSTLY AND DISRUPTIVE.

Currently, the ITFS/MMDS spectrum is used primarily for the provision of either one-way video service to students or wireless cable service to subscribers. SIA offers no plan for relocating or compensating ITFS and MMDS licensees for the loss of their spectrum. In fact, SIA does not even acknowledge the existence of incumbents in the bands it seeks to occupy. SIA's complete failure to address this important issue is particularly surprising since the proposed reallocation would have a substantial adverse effect on current plans by ITFS/MMDS licensees to deploy high-speed, two-way wireless data services throughout the United States pursuant to new rules adopted by the Commission.

Last year, the Commission adopted rules that permit ITFS/MMDS frequencies to be used for a whole new array of services including the delivery of high-speed Internet access, and two-way video, voice and data services.³ The three-year rule making that led to the adoption of these new rules was lengthy and complex, sparking massive interest and debate within the ITFS/MMDS community. Collectively, ITFS and MMDS licensees spent millions of dollars, and thousands of hours responding to the Commission's proposals in an effort to ensure that the new rules would properly balance the

3. Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, 13 FCC Rcd 19112 (1998), recon., 14 FCC Rcd 12764 (1999), further recon., 15 FCC Rcd ____ (FCC 00-244, rel. July 21, 2000).

differing needs of educators and commercial operators who share the ITFS/MMDS spectrum. In addition WorldCom and Sprint have spent over \$2 billion acquiring MMDS operators that own and/or lease ITFS channels in various parts of the United States.⁴

Now that the two-way rules are finally in place, ITFS and MMDS licensees are devoting substantial additional resources negotiating revisions to excess capacity lease agreements to accommodate two-way service, conducting complex two-way engineering studies, and preparing two-way applications for filing. It is anticipated that the real benefits of the Commission's new two-way rules will begin to emerge in 2001, as the applications filed during the August 14-18, 2000 filing window are granted and new systems are constructed.

Reallocating more than 20 percent of this band (40 MHz out of 196 MHz) as the Petition requests would unjustifiably force ITFS/MMDS licensees to re-engineer their systems or relocate to different spectrum to account for the presence of satellite services in the band. The proposed reallocation could also undermine efforts well under way to deploy two-way systems. Even the seemingly innocuous step of issuing a notice of proposed rule making would force ITFS/MMDS licensees to reevaluate their deployment plans on the eve of implementation. SIA has completely failed to address these important issues.

II. THE BENEFITS OF THE SIA PROPOSAL ARE DISTANT AND SPECULATIVE.

The benefits of the SIA proposal are distant and speculative. SIA states that "the time needed for construction, launch and operation of an MSS system is four to six years."⁵ By contrast, the benefits

4. See FCC Clarifies Application Process for 2-Way Wireless Cable, Communications Daily (July 15, 1999).

5. Petition at 8.

of the Commission's revised ITFS/MMDS rules are already emerging. For example, Sprint has already launched a first-generation two-way system in Phoenix, Arizona. The system reportedly has more than 4000 customers and is gaining between 300-400 new customers per week.⁶ Many more systems will be launched in the months ahead as two-way applications are filed with the Commission and processed pursuant to the Commission's new streamlined procedures. Sprint has stated that it expects to file more than 1,500 applications during the two-way filing window.⁷

Moreover, none of SIA's arguments demonstrates that there is sufficient demand for MSS services to justify the reallocation it seeks. First, SIA contends that "it is generally less expensive and more efficient to use satellite systems to serve rural, remote and currently under served areas than to install a wireline system."⁸ However, the reasonable alternative to a satellite system (using the same spectrum) is not a wireline system, but a terrestrial wireless system. ITFS/MMDS and MSS share all of the same advantages over wireline services. However, ITFS/MMDS can provide voice and data services just as easily, far more economically, and much sooner than MSS.

Similarly, SIA contends that MSS should be allocated additional spectrum because consumers will demand the additional bandwidth required to provide various advanced services, and because demand for voice and other existing services will grow. Again, SIA confuses the demand for bandwidth with the demand for MSS. It offers no rationale for its implicit argument that the Commission should favor one wireless technology (MSS) over another (ITFS/MMDS).

SIA also argues that because the International Telecommunications Union ("ITU") has decided

6. Comments of Sprint Corporation, MM Docket No. 97-217, at 8 (filed June 19, 2000).

7. Id. at 8-9.

8. Petition at 4.

a demand for MSS services exists, the U.S. should accept this conclusion and bring itself in line with the rest of the world. The ITU's conclusion, however, is based on its estimates of global spectrum demand. Nothing in the SIA's petition proves that U.S. consumer demand for telecommunications services generally, or MSS services in particular, mirrors that of the rest of the world. Plainly, U.S. need for satellite voice and data services does not match that of less developed countries. Thus, there is no reason for the U.S. to coordinate this portion of its table of allotments with the table of other countries.⁹

Not only has SIA failed to demonstrate that demand exists for additional MSS service, SIA's own evidence demonstrates that there actually is a glut in MSS services. SIA notes that the Commission has licensed two MSS systems in the L Band, four at 1.6/2.4 GHz, and is considering nine additional applications in the 2 GHz MSS allotment. In short, by SIA's own count, there will soon be at least seven MSS systems in operation. There is no evidence that these seven systems will be filled to capacity, thus requiring the additional MSS allocation that SIA requests. In addition, Iridium's recent bankruptcy provides at least circumstantial evidence that the current supply of MSS services exceeds demand.

III. CONCLUSION

Grant of the Petition would cause significant harm to existing operations in the 2500-2520 MHz and 2670-2690 MHz frequency bands. SIA fails to demonstrate that its proposal would result in any public benefit. For these reasons the Commission should dismiss the Petition.

9. Retaining the current allocation of the bands is consistent with recent developments at WRC-2000. See ITU Res.[COM5/26] (WRC-2000).

Respectfully submitted,

ARCHDIOCESE OF LOS ANGELES
EDUCATION AND WELFARE CORPORATION

CARITAS TELECOMMUNICATIONS CORP.
ROMAN CATHOLIC DIOCESE OF SAN
BERNARDINO

CATHOLIC BISHOP OF CHICAGO

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COUNTERPOINT COMMUNICATIONS, INC.

DIOCESES OF THE SAN FRANCISCO BAY
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ROMAN CATHOLIC DIOCESE OF DALLAS

ROMAN CATHOLIC DIOCESE OF ORANGE

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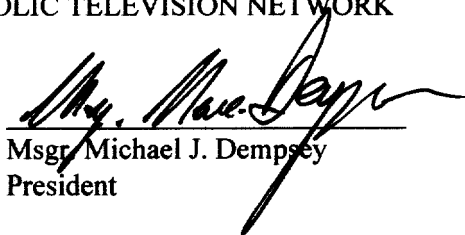


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By:



Aubrey Harris
Chief Engineer

August 28, 2000

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Chief Engineer

CERTIFICATE OF SERVICE

I, Joanne Stewart, certify that I have sent a copy of the foregoing "Joint Opposition" by first class mail on August 28, 2000, postage prepaid, to the following:

Michael Fitch
Clayton Mowry
The Satellite Industry Association
225 Reinekers Lane, Suite 600
Alexandria, VA 22314


Joanne Stewart